

Senate File 396 - Reprinted

SENATE FILE 396
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1172)

(As Amended and Passed by the Senate March 22, 2011)

A BILL FOR

1 An Act relating to the regulation of indemnification provisions
2 in construction contracts.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 537A.5 Indemnity agreements —
2 **construction contracts.**

3 1. As used in this section, "*construction contract*"
4 means an agreement relating to the construction, alteration,
5 improvement, development, demolition, excavation,
6 rehabilitation, maintenance, or repair of buildings, highways,
7 roads, streets, bridges, tunnels, transportation facilities,
8 airports, water or sewage treatment plants, power plants,
9 or any other improvements to real property in this state,
10 including shafts, wells, and structures, whether on ground,
11 above ground, or underground, and includes agreements for
12 architectural services, design services, engineering services,
13 construction services, construction management services,
14 development services, maintenance services, material purchases,
15 equipment rental, and labor. "*Construction contract*" includes
16 all public, private, foreign, or domestic agreements as
17 described in this subsection other than such public agreements
18 relating to highways, roads, and streets.

19 2. Except as excluded under subsection 3, a provision
20 in a construction contract that requires one party to the
21 construction contract to indemnify, hold harmless, or defend
22 any other party to the construction contract, including the
23 indemnitee's employees, consultants, agents, or others for
24 whom the indemnitee is responsible, against liability, claims,
25 damages, losses, or expenses, including attorney fees, to
26 the extent caused by or resulting from the negligent act or
27 omission of the indemnitee or of the indemnitee's employees,
28 consultants, agents, or others for whom the indemnitee is
29 responsible, is void and unenforceable as contrary to public
30 policy.

31 3. This section does not apply to the indemnification
32 of a surety by a principal on any surety bond, an insurer's
33 obligation to its insureds under any insurance policy or
34 agreement, a borrower's obligations to its lender, or any
35 obligation of strict liability otherwise imposed by law.